

REMARKS

Claims 1-22 are currently pending in this application. The Office objected to claim 20 because of informalities and has required correction to add a missing word. The Office has rejected claims 20, 21 and 22 under 35 USC § 102(b) as being anticipated by Ortiz *et al.* (U.S. Pat. No. 7,209,733; hereinafter Ortiz). The Office rejected claims 1-4, 6-9, 12-14, 16 and 17 under 35 USC § 103(a) as being unpatentable over Ortiz in view of Chatani (U.S. Pat. No. 6,792,292). Claims 5, 10, 11 and 18 have been rejected under 35 USC § 103(a) as being unpatentable over Ortiz in view of Chatani (as applied to claim 4) and further in view of Deaton (U.S. Pat. No. 6,292,786; hereinafter “Deaton#1”). Claim 15 has been rejected under 35 USC § 103(a) as being unpatentable over Ortiz in view of Chatani (as applied to claim 4) and further in view of Deaton (U.S. Pat. No. 5,687,322; hereinafter “Deaton#2”). Finally, claim 19 has been rejected under 35 USC § 103(a) as being unpatentable over Ortiz in view of Chatani (as applied to claim 4) and further in view of Von Kohorn (U.S. Pat. No. 5,368,129). This is a non-final Office action and is responsive to the filing of Applicant's application on July 31, 2003.

Amendments to the Claims

Applicant requests that the amendments to the claims be entered into the application. No new subject matter is being entered. The amendment to claim 20 was in response to a requirement by Office to correct an informality. The amendments to claims 3 and 22 change the language introducing of the claim steps and do not introduce new subject matter or claim elements.

102(b) Rejection of Independent Claims 20 and 22 by Ortiz

Applicant requires “a customer interface device” and lists several elements that comprise the device such as “a processor” and “a customer identification device.” The Office asserts that Ortiz teaches these requirements stating, “Figs 5-12 discloses the CPU (central processor unit) 78 and several components of the customer identification device (input/output device 74, the credit manager 85, credit database 81, coupon database 82, and coupon manager 83 are all components of the customer identification device.”

(Office action, page 2, section 4.) Applicant disagrees. Ortiz clearly teaches that the elements described by the Office are part of a point-of-sale (POS) terminal. (See col. 12, lines 21-44.) Ortiz teaches that the POS terminal uses the input/output device 74 to communicate with a PDA or user hand held device 72 and that it is the hand held device that interfaces with the customer. The items listed by the Office neither interface with a customer or provide customer identification. Therefore, the Office has failed establish that Ortiz shows or suggests a customer interface device as required by Applicant.

Applicant further requires the customer interface device to comprise “a display for displaying a message alerting a customer to a promotion earned by the customer.” The Office asserts that Ortiz teaches this requirement stating the same justification language quoted in the above paragraph. Applicant disagrees. The elements cited by the Office do not include a display or “a display for displaying a message alerting a customer to a promotion earned by the customer” as required by Applicant. Therefore, the Office has failed establish that Ortiz shows or suggests this element required by Applicant.

Applicant requires that “the processor receives customer identification information from the customer identification device” On this point, the Office has failed to provide any assertion to the contrary. On page 3 of the Office action starting with the second full paragraph, the Office lists this and several others requirements however, the Office fails to provide a citation or assertion that this requirement is found in Ortiz or anywhere else. At the end of the paragraph after listing several claim requirement and citations, the Office states, “The input/output device 74, the credit manager 85, credit database 81, coupon database 82, and coupon manager 83 are all components of the customer identification device.” If this is the citation for this requirement, then as shown above, the Office has not established a customer identification device or that there is customer identification information or that the processor receives customer identification information from the customer identification device as required by Applicant. Therefore, the Office has failed to show that Ortiz contains these required elements.

Applicant further requires that the processor “sends the customer identification information and the purchased item information to the local promotional server over a wireless local area network.” Again, the Office has failed to distinctly point out where

and how Ortiz teaches this specific requirement. The Office combines this requirement with a number of other requirements then states “Fig. 5 CPU 78 compares the price of scanned products/items based on product data stored in the product database 84 with the discounted price associated with user provided coupon data” (Office action, page 3, second full paragraph.) Applicant is at a loss to understand how this statement supports an assertion that Ortiz teaches the required claim elements. Applicant requires that the processor send customer identification information and the purchased item information to the local promotional server. The Office describes the CPU comparing the price of scanned products/items. This is clearly not what Applicant requires. Also, as shown above, the Office has not established the presences of customer identification information. Furthermore, Applicant requires the use of a wireless local area network to send all the information to the local promotional server, which the Office also fails to address in any manner. Therefore, the Office has failed to show that Ortiz contains this required element.

The 102(b) rejection of these claims is improper because the Office has failed to establish the Ortiz shows or suggests all the required elements of Applicants claimed invention.

103(a) Rejection of Independent Claim 1 by Ortiz in View of Chatani

Applicant requires “a local promotional server wirelessly connected to the customer interface device for sending the details of the promotion to the customer interface device.” The Office asserts that Ortiz teaches this requirement stating, “Col 12, lines 30-35 discloses the local promotional server as input/output unit 74, CPU 78, display 76, and scanner 86, which send details of the promotion from the coupon database to the user. Fig 5. shows the wireless connection via 71 and 68.” (Office action, page 6, section 6.c.) Applicant disagrees. The Officer equates the local promotional server to input/output unit 74, CPU 78, display 76, and scanner 86. In Fig. 5, Ortiz clearly identifies these elements as part of a point-of-sale terminal. A person of ordinary skill in the art would not equate elements of a point-of-sale terminal to local promotional server and neither does Ortiz. Furthermore, the wireless connection elements 71 and 68 cited by the Office are used by Ortiz to connect a point-of-sale terminal to a hand held

device. Neither of these devices are a local promotional server. For these reasons, the Office has failed to establish that Ortiz shows or suggest all the required elements of Applicant's claimed invention.

Applicant further requires "a customer interface device at the checkout counter for alerting a customer to existence of a promotion and for transferring details of the promotion to the point-of-sale computer, wherein the details of the promotion appear as bar code data to the point-of-sale computer." The Office acknowledges that Ortiz fails to explicitly disclose these requirements and asserts that Chatani does. Applicant disagrees. Chatani teaches a portable device that receives data over a wireless connection and then converts and displays the data as a bar code image so that a bar code scanner can then read the image of the bar code from the display of the portable device. The Office has failed to show how this equates to alerting a customer to the existence of a promotion. The device simply converts digital numeric data to optical bar code data. There is no check for promotional data and no alerting of a customer to the existence of a promotion. Furthermore, Applicant requires transferring details of the promotion to the point-of-sale computer, where the details appear as bar code data to the point-of-sale computer. The bar code data is data that is formatted so that each numeric position has the same meaning as the corresponding data position on a bar code image however the bar code data is still in numeric form and not an optical bar code image. Chatani generates an actual optical bar code image that represents the data and requires that a point-of-sale computer scan the image using a bar code scanner. Applicant requires a customer interface device that transfers promotion details as bar code data to the point-of-sale computer. Chatani simply does not teach this. Therefore, the Office has failed to establish that Chatani shows or suggests these elements, which are required by Applicant.

The Office has failed to establish a *prima facie* case of obviousness because the references whether taken together or separately fail to show or suggest all the required elements of Applicant's claimed invention.

103(a) Rejection of Independent Claim 3 by Ortiz in View of Chatani

Applicant requires "collecting and storing information about a customer." The Office asserts that Ortiz teaches this requirement stating, "Fig 8 discloses credit manager

85 and credit database 81 operates as ‘collection and storage’ devices.” (Office action, page 7, third paragraph.) Applicant disagrees. While these elements may operate as collection and storage devices, the Office has failed to show that information about a customer is being collected and stored. Ortiz teaches that credit database 81 contains credit data such as credits or awards associated with retail/commercial transactions. (See Ortiz, col. 14, lines 47-48.) Ortiz further teaches that “credit manager 85 accesses credit database 81 and determines associations between scanned items and credit” (Ortiz, col. 14, lines 63-65.) In Ortiz, the credit database 81 is used to store credit or awards information related to retail/commercial transactions and that the credit manager 85 accesses the credit database to determine associations between an item that has been scanned and any credit or awards that maybe related to that item. The Office has not asserted that either of these elements collects and stores information about a customer as required by Applicant. Therefore, the Office has failed to establish that Ortiz shows or suggests these elements, which are required by Applicant.

Applicant requires “generating a promotion based upon the information about the customer.” The Office asserts that Ortiz teaches this requirement stating, “Fig 13 and Col 17 lines 52-62 discloses third-party provider **156** can also provide credit information to the retail establishment or other enterprise associated with POS **140** through network **160**, thereby enabling credit manager **164** to maintain and handle transactions involving hand held device **132** and point of sale **138** . The user of hand held device must, of course, have previously registered to receive such credits from third-party provider **156** either directly or with third-party provider **156** or indirectly through transaction broker **148**.” Applicant disagrees. Ortiz teaches that a user can register to receive credits from a third-party provider. Registering to receive credits can be as simple as providing a mail address. Nowhere in the passage does Ortiz teach that a promotion is generated based upon information about the customer only that the action of the customer can cause the customer to receive the credits. In addition, the promotion exists prior to any contact with the customer. The customer simply registers to receive it. Therefore, the promotion cannot be generated based upon information about the customer. The Office has failed to establish that Ortiz shows or suggests these elements, which are required by Applicant.

Applicant requires “sending the details of the promotion to a point-of-sale computer at the checkout counters, including sending the details as bar code data.” The Office acknowledges that Ortiz fails to explicitly disclose these requirements and asserts that Chatani does. Applicant disagrees. Chatani teaches a portable device that receives data over a wireless connection and then converts and displays the data as a bar code image so that a bar code scanner can then read the image of the bar code from the display of the portable device. The Office has failed to show how this equates to alerting a customer to the existence of a promotion. The device simply converts digital numeric data to optical bar code data. There is no check for promotional data and no alerting of a customer to the existence of a promotion. Furthermore, Applicant requires transferring details of the promotion to the point-of-sale computer, where the details appear as bar code data to the point-of-sale computer. The bar code data is data that is formatted so that each numeric position has the same meaning as the corresponding data position on a bar code image however the bar code data is still in numeric form and not an optical bar code image. Chatani generates an optical bar code image that represents the data and requires that a point-of-sale computer scan the image using a bar code scanner. Applicant requires a customer interface device that transfers promotion details as bar code data to the point-of-sale computer. Chatani simply does not teach this. Therefore, the Office has failed to establish that Chatani shows or suggests these elements, which are required by Applicant.

The Office has failed to establish a *prima facie* case of obviousness because the references whether taken together or separately fail to show or suggest all the required elements of Applicant’s claimed invention.

103(a) Rejection of Independent Claim 4 by Ortiz in View of Chatani

Applicant requires “a customer identification device at the checkout counter.” The Office asserts that Ortiz teaches this requirement stating, “col 5 lines 35-40 discloses a credit manager 85 which functions as a component of the customer identification device. It manages the user’s credit data from the credit database, and a determining module for identifying a matching association between credit data accessed from the credit database and at least one item and/or service that is scanned/selected at the point of

sale.” (Office action, page 9, forth paragraph.) Applicant disagrees. Ortiz does not use the term “customer identification device” nor does Ortiz teaches a device that equates to what Applicant requires. The cited passage discloses a system that uses a credit manager for keeping a running total of credits for one or more items being scanned at a point-of-sale terminal. A person of ordinary skill in the art would not believe this to be or equated to “a customer identification device,” as required by Applicant. The Office has failed to establish that Ortiz shows or suggests this element, which is required by Applicant.

The Office states “Ortiz *et al.* fails to explicitly disclose the customer interface device displaying a message informing a customer that the customer is to receive the promotion and transferring the details of the promotion to the point-of-sale computer for processing by the point-of-sale computer.” (Office action, page 10, top paragraph.) Applicant agrees. Instead, the Office looks to Chatani for this teaching. In the passages cited by the Office, Chatani teaches how data sent to a portable device is converted to an optical bar code that is then scanned by a point-of-sale terminal for a discount on an item being purchased. The passage does not teach that the device displays information informing the customer that the customer is to receive the promotion as required by Applicant. Chatani device simple displays a bar code suitable for scanning by a bar code scanner. Unless the user can read bar code images, the user would have not knowledge of what the bar code means. At least this element is missing from Chatani. Therefore, the Office has failed to establish that Chatani shows or suggests this element, which is required by Applicant.

The Office has failed to establish a *prima facie* case of obviousness because the references whether taken together or separately fail to show or suggest all the required elements of Applicant’s claimed invention.

103(a) Rejection of Dependent Claims in View of Deaton#1, Deaton#2 and Von Kohorn

Deaton#1 teaches a method and system for generating incentives based on substantially real-time product purchase information. Deaton#2 teaches a method and system for selective incentive point-of-sale marketing in response to customer shopping histories. Finally, Von Kohorn teaches a retail outlet with billing facilities that have an integrated couponing system. These references whether taken together or separately

show or suggest all the elements of Applicant's claimed invention that are missing from Ortiz and Chatani. The Office has failed to establish a *prima facie* case of obviousness because the references whether taken together or separately fail to show or suggest all the required elements of Applicant's claimed invention.

Dependent Claims

The remaining dependent claims are allowable for at least the same reasons as the corresponding independent claim.

CONCLUSION

Applicant asks the Office to reconsider this application and allow all pending claims. Please charge any fees that might be due, excluding the issue fee, to deposit account 14-0225.

Respectfully submitted,

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